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BEFORE THE ARIZONA CORPORATION COMMISSION

MIKE GLEASON
Chairman

WILLIAM A. MUNDELL
Commissioner

JEFF HATCH-MILLER
Commissioner

KRISTIN K. MAYES
Commissioner

GARY PIERCE
Commissioner

IN THE MATTER OF THE JOINT NOTICE OF INTENT OF VERIZON COMMUNICATIONS, INC., AND MCI, INC., ON BEHALF OF ITS REGULATED SUBSIDIARIES	DOCKET NOS: T-01846B-05-0279 T-03258A-05-0279 T-03475A-05-0279 T-03289A-05-0279 T-03198A-05-0279 T-03574A-05-0279 T-02431A-05-0279 T-03197A-05-0279 T-02533A-05-0279 T-03394A-05-0279 T-03291A-05-0279

NOTICE OF COMPLIANCE FILING

This notice is filed pursuant to Decision No. 68348, which required the filing of "all petitions and/or comments filed at the FCC or with Congress which seek preemption of state regulation." On May 31, 2007, Verizon filed comments with the Federal Communications Commission in the matter of the Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the

Telecommunications Act of 1996, GN Docket No. 07-45. A copy of the filing is attached.

RESPECTFULLY SUBMITTED this 5th day of June, 2007.

By: _____

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COPY of the foregoing hand-delivered
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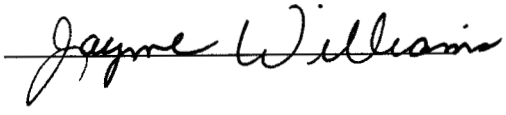

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Inquiry Concerning the Deployment of	)	
Advanced Telecommunications	)	
Capability to All Americans in a	)	GN Docket No. 07-45
Reasonable and Timely Fashion, and	)	
Possible Steps To Accelerate Such	)	
Deployment Pursuant to Section 706 of the	)	
Telecommunications Act of 1996	)	

REPLY COMMENTS OF VERIZON AND VERIZON WIRELESS

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May 31, 2007

INTRODUCTION AND SUMMARY

The record here confirms the success of the Commission's policies in promoting broadband competition and investment. Since the last broadband NOI alone, the percentage of U.S. households with broadband has doubled to approximately 44 percent of the population; the vast majority of U.S. consumers now have access to at least three competitive broadband platforms; and consumers' broadband options – particularly next-generation broadband networks – are quickly increasing.

The commenters include entities deploying a wide range of broadband services throughout the country – including telephone companies and others deploying DSL and next-generation fiber networks; wireless carriers deploying wireless broadband networks; cable companies providing cable modem service; fixed wireless carriers deploying WiMAX networks; various companies using satellite broadband; and entities deploying WiFi networks. Virtually all of these entities agree that the Commission's current pro-competitive policies have played an important role in their success, and that the Commission should accordingly continue these policies going forward.

Although no party disputes the fact that broadband availability and usage have been steadily increasing, several commenters try to characterize this progress as insufficient, in the hopes that the Commission will impose various regulations in furtherance of these parties' narrow policy agendas. But there is no basis for the Commission to take such an approach. Many of the proposed regulations have already been tried and failed, particularly as compared to the success achieved under the Commission's pro-competitive policies. The commenters are therefore left to argue that these regulations have proven successful in other parts of the world. But the record of intrusive broadband regulation in other countries is mixed at best, and in no case should

this international experience be permitted to trump the experience here at home. The fact of the matter is that the United States broadband marketplace has made huge progress since the inception of the Commission's pro-competitive policies, now compares favorably to other major countries, and the U.S. has in fact become a world leader in broadband in many key respects.

Although there is disagreement about what policies the Commission should adopt going forward to promote broadband, virtually all commenters agree that the Commission should quickly auction additional spectrum that is well-suited to broadband, including the 700 MHz band. Although a few commenters argue that the Commission should limit the bidders and use of such spectrum, there is no basis for such burdensome restrictions. The wireless industry is intensely competitive, and will grow even more so with the licensing of additional spectrum. Moreover, experience demonstrates that, both with respect to wireline and wireless services, attempts to regulate broadband have only impeded its growth, while deregulation has been a major catalyst for investment and competition. For that reason, the Commission also should reiterate that any state or local efforts to regulate broadband services are inconsistent with federal policy and are preempted.

Finally, with respect to the Commission's inquiry as to how to define broadband, there is broad consensus among the comments for the Commission to take a flexible approach to collecting broadband data that is generally consistent with the approach that the Commission has already adopted. Because the broadband marketplace is continually evolving, a flexible approach is preferable to an arbitrary definition. The Commission has already begun to collect and report data for different service tiers, which enables a nuanced view of the broadband available to consumers. Although some parties seek to

revise the baseline definition for broadband, this will only reduce the data available to track the progress of broadband deployment rather than increase the speeds of broadband services being offered. Moreover, entry-level broadband speeds (200 kbps or higher) are still sufficient for many popular applications (such as web-surfing and e-mail), and should therefore still be part of the data that the Commission considers.

I. THE RECORD CONFIRMS THAT BROADBAND COMPETITION AND INVESTMENT ARE SIGNIFICANT AND INCREASING

Although the comments reflect a wide range of views on how to characterize the state of the U.S. broadband marketplace, there is general agreement on the basic facts: multiple broadband alternatives are available to more than 90 percent of the population, and, as of the end of the first quarter of 2007, at least 44 percent of all U.S. households subscribed to broadband. *See* Verizon Comments at 5. Even greater shares of online households (70 percent) and "active Internet users" (80 percent) have a broadband connection at home. *See id.* at 5-6. Many Americans also have a second broadband connection at work. *See id.* at 29. And a large and rapidly increasing share of the population is using wireless broadband as a competitive alternative. *See id.* at 25. Much of this progress has been made since the Commission took deregulatory steps such as eliminating common-carrier and unbundling obligations for broadband. *See id.* at 6-7, 10.

The comments also confirm that, unlike in most of the rest of the world including those countries where broadband penetration is supposedly greater, the copper telephone network is not the only (or even principal) option for broadband, and there is massive private investment in developing and deploying next-generation wireline and wireless broadband networks. For example, the Fiber-to-the-Home ("FTTH") Council reports (at

4, 11) that FTTH networks "are beginning to be deployed more widely," and offer much greater broadband transmission speeds than existing alternatives – "up to 30 Mbps/5 Mbps in many areas and even 50 Mbps/10 Mbps in select locations" in the case of Verizon's FiOS network. The cable industry's trade association, NCTA, reports (at 5-6) that cable modem service was available to 94 percent of households in 2006, will be available to 95 percent in 2007, and that the cable industry has invested $23 billion in the last two years alone. NCTA has recently informed Congress that cable operators will "soon deploy a new architecture (DOCSIS 3.0) which will allow speeds above 100 Mbps."[1]

Both Clearwire and Sprint Nextel ("Sprint") are investing heavily to make next-generation fixed wireless services available. Sprint claims (at 8) that it is "investing in its fourth-generation ('4G') nationwide broadband mobile network, using its 2.5 GHz spectrum holdings and the mobile WiMAX technology standard," and that, "by 2008, Sprint Nextel expects its WiMAX network to be capable of serving as many as 100 million people." Clearwire states (at 2-4 & n.10) that it "constructs and operates next generation portable wireless broadband networks and services," which "currently blanket[] 38 U.S. markets covering approximately 9.1 million people in more than 400 municipalities," with this total expected to rise to 16-18 million by the end of 2007. Clearwire's holding of 2.5 GHz spectrum "includes approximately 14.0 billion MHz POPs of spectrum in the U.S., covering an estimated 223 million people," with enough spectrum in individual markets to "commercially launch its services over spectrum

[1] Kyle McSlarrow, President and CEO, National Cable & Telecommunications Association ("NCTA"), *Broadband Letter to the Hill* (Apr. 23, 2007), http://www.ncta.com/DocumentBinary.aspx?id=578.

covering an estimated 117 million people in the United States." Clearwire at 4-5. In 2006, Clearwire secured "more than one billion dollars in funding from leading hardware manufacturers Intel, Motorola and Bell Canada to finance its wireless network," and in March 2007, it completed an IPO that raised an additional $557 million in proceeds. *Id.* at 6. In Clearwire's initial 25 markets, it reports that "more than 1 out of 10 households in its respective coverage area . . . now have Clearwire service," and that "33% of Clearwire's customer base were former cable modem subscribers, followed by 26% former DSL services, and 27% from dial-up services." *Id.* at 7.

Sprint and other parties also demonstrate that there is massive investment to deploy wireless broadband networks. Sprint estimates (at 7-8) that, "by year-end 2008, its EvDO services will reach as many as 280 million people, or approximately 92 percent of the U.S. population," and states that it also is deploying EV-DO Revision A that offers significantly faster speeds and can enable "high-speed video telephony, music on demand, video messaging, large file uploads and high performance push-to-talk capability." As Verizon has demonstrated, it has likewise deployed EV-DO to the vast majority of the population, and is investing heavily to deploy EV-DO Revision A. Verizon Comments at 8. Moreover, as CTIA notes (at 5-7), many other wireless carriers are likewise deploying high-speed offerings, including Alltel (EV-DO to more than 44 million POPs in 100 cities), AT&T (HSDPA to virtually all of the top 100 markets), T-Mobile (investing $2.7 billion to deploy HSDPA), and smaller wireless carriers such as Alaska Communications Systems, Cellular South, Midwest Wireless, and others.

The comments also show that WiFi and satellite offer broadband alternatives for many customers. Tropos states (at 2) that "[i]n over 500 deployments, Tropos

technology is providing wireless broadband over large geographic areas," generally in connection with municipal WiFi networks. Tropos also correctly points out (at 5) that services like WiFi provide broadband connectivity that often is not reflected in ordinary subscriber or line counts, but must be considered in any proper analysis of broadband availability. Indeed, WiFi is more prevalent in the U.S. than anywhere else in the world, with the U.S. accounting for approximately one-third of all WiFi hot spots.[2] Moreover, both large carriers like AT&T and smaller carriers like the Nebraska Rural Independent Companies indicate that they are using satellite technology – such as WildBlue – to provide broadband service, particularly in rural areas where the cost of other technologies is often prohibitive. *See* AT&T at 9; Nebraska Companies at 5 ("Six of the Nebraska Companies (or affiliates) offer WildBlue satellite service, as part of the cooperative effort of nine rural companies in Nebraska to make satellite service available in every part of the state.").

The record further demonstrates that broadband deployment is taking place widely throughout the country, including in rural areas. For example, the National Telecommunications Cooperative Association ("NTCA"), which represents 575 rural ILECs, provides the results of a survey it conducted a year ago finding that 100 percent of respondents offer broadband to some part of their customer base (up from 96 percent the previous year and from 58 percent in 2000); that these companies are deploying DSL (98 percent), fiber (28 percent), unlicensed wireless (22 percent), satellite (15 percent), and licensed wireless (13 percent); that 88 percent of customers could receive at least 1

[2] *See* JiWire, *Wi-Fi Hotspot Directory*, http://www.jiwire.com/hotspot-hot-spot-directory-browse-by-country.htm (as of May 31, 2007, there were 146,865 WiFi locations worldwide, including 50,750 in the U.S.).

Mbps (up from 72 percent in 2005) and 39 percent can receive at least 3 Mbps (up from 31 percent); and that the vast majority of subscribers (86 percent) served by rural ILECs have multiple competitive alternatives for broadband. *See* NTCA at 3-4. Similarly, the Nebraska Companies state (at 5) that they offer DSL in 154 of the 157 telephone exchanges they serve, that 91 percent of all households in the 157 exchanges have access to DSL, and that some of the Nebraska Companies also provide broadband via cable modem, fixed wireless, or satellite.

Despite all this, some commenters claim that levels of broadband availability and usage are still inadequate.[3] To be sure, there are still some areas of the country with limited access to broadband, largely as a result of factors such as topography and population density. Moreover, there are some classes of customers (*e.g.*, low-income), institutions (*e.g.*, public libraries), or even businesses (*e.g.*, farms) for which not all of the existing broadband alternatives may be as available or affordable as they are to the population more generally.[4] But this largely reflects economic, societal, or demographic issues and not any alleged market failure for broadband.

In addition, the record shows that, to the extent there is a broadband divide, the best way to close it is not by imposing burdensome regulations, but instead by ensuring that incentives exist for providers to invest in broadband infrastructure. As Verizon discussed in its comments, the private-public partnership model – like the one used by ConnectKentucky – also has proven itself to be a successful method of exploring and addressing the full range of supply- and demand-side factors that influence broadband

[3] *See, e.g.*, Consumers Union *et al.* at 3; Alliance for Public Technology ("APT") at 8; M2Z Networks ("M2Z") at 6-7.

[4] *See, e.g.*, APT at 8; Computer & Communications Industry Association ("CCIA") at 3; American Library Association ("ALA") at 2; Consumers Union *et al.* at 21.

availability and adoption, and of developing market-based solutions to address any broadband gaps. As described below, the ConnectKentucky initiative was structured in a way to ensure that broadband providers (with the exception of mobile wireless carriers) had strong incentives to participate – their data was kept confidential, they received valuable information on consumer demand, and were provided with a business cases and other resources that facilitating their deployment of broadband to underserved areas. In addition, because of the localized nature of the initiative, ConnectKentucky was able to identify local factors, such as low computer usage, that help explain low interest in broadband, as well as local resources, such as water towers, to which wireless broadband facilities could be attached, that could contribute to meaningful solutions for expanding broadband availability in the particular local area. As many commenters note, the ConnectKentucky initiative has resulted in wireline or other fixed broadband services being available to more than 90 percent of households in Kentucky (a heavily rural state), and by the end of this year that total will reach virtually 100 percent.[5]

A number of commenters also rehash timeworn claims that broadband is a "duopoly," and that alternatives such as broadband wireless do not offer fast enough speeds or low enough prices to be considered in the same market as cable or DSL.[6] These claims both take an unduly narrow view of the current market, and ignore the enormous investment that is occurring to deliver faster and more economical broadband

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[5] ConnectKentucky, *Broadband Adoption and Barriers: Results & Analysis from the ConnectKentucky Technology Assessment Study*, http://www.connectkentucky.org/NR/rdonlyres/2F6BAAC1-A6D0-4DD7-BEDF-385030488D6C/0/CKdocSRSBroadbandAdoptionBenchmarks.pdf; ConnectKentucky, *2007 Progress Report* at 4-5.

[6] *See, e.g.*, Consumers Union *et al.* at 29; M2Z at 9; New Jersey Division of Rate Counsel ("NJ Rate Counsel") at 19.

alternatives to all segments of the population over multiple, competing platforms. The vast majority of U.S. households have a choice *today* between at least two facilities-based wireline providers (cable and DSL), up to three facilities-based satellite providers (HughesNet, StarBand, and WildBlue), and multiple wireless alternatives – a situation that is far from a duopoly. Broadband subscribership has been growing rapidly, and is expected to continue growing, which suggests that price and availability of broadband are not an obstacle to continued growth. Indeed, as a number of commenters note, several recent studies suggest that price and availability are not the main obstacle for the majority of customers.[7]

Moreover, as demonstrated above and in Verizon's comments, regardless of what conclusions one draws from the broadband alternatives available today, there is no question that massive investment is taking place to bring next-generation broadband to consumers. Verizon is investing $23 billion in FiOS, Verizon Wireless is investing billions more in wireless broadband, and other companies are responding with investments of their own in a wide range of technologies and in geographic areas throughout the country. There is accordingly every indication that the "market" – thanks in large part to this Commission's pro-competitive and deregulatory policies – is working.

II. THE COMMISSION SHOULD CONTINUE TO PURSUE PRO-INVESTMENT POLICIES AS THE BEST MEANS OF PROMOTING THE COMPETITIVE AVAILABILITY OF BROADBAND

Verizon's comments demonstrated that the Commission's pro-competitive policies have been a success, fostering increased availability and use of broadband.

[7] *See, e.g.*, ConnectedNation at 8-9; NCTA at 20; *see also* Verizon Comments at 29-30.

Verizon explained that, to further promote broadband, the Commission should continue to pursue its pro-competitive, pro-investment agenda in several key respects. First, the Commission should encourage additional intermodal broadband competition through its spectrum policies, by quickly auctioning spectrum that is well-suited for broadband services, such as the 700 MHz band, using the same limited regulatory approach that has directly contributed to the vigorously competitive wireless sector. Second, the Commission should reiterate that attempts by state and local regulators to impose broadband regulation are preempted.

Although a number of commenters seek to impose various burdensome broadband regulations that advance their special interests, there is no basis for the Commission to take this retrograde approach.

Restrictions on Spectrum. There is almost unanimous agreement that the Commission should quickly auction additional spectrum that is well-suited to broadband, including the 700 MHz band.[8] Although a few commenters argue that the Commission should limit the bidders and use of such spectrum, there is no basis for such burdensome restrictions. For example, Consumers Union *et al.* argue (at 52) that the Commission should exclude wireline carriers from bidding for 700 MHz band, based on its claims that common ownership of wireline and wireless broadband networks will hinder broadband deployment.[9] But Verizon's industry-leading investment in both wireless and wireline broadband puts the lie to such claims, and proves that wireline carriers have more than sufficient incentives to make the most productive use of the spectrum.

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[8] *See* APT at 11; CCIA at 5; CTIA at 9; Sprint at 16; Telecommunications Industry Association ("TIA") at 2. *See also* Consumers Union *et al.* at 36; PCIA at 1-2.

[9] *See also* M2Z at 6.

Nor is there any legitimate ground for imposing so-called open-access restrictions on future (or existing) wireless licenses, as some parties propose.[10] As Verizon Wireless has demonstrated at length elsewhere, such restrictions are both unnecessary and counterproductive.[11] The wireless industry is intensely competitive, and will grow even more so with the licensing of additional spectrum. This competition has already led service providers to provide wholesale access to their networks on a commercial basis; there is simply no need for regulations to impose redundant requirements. Moreover, experience demonstrates that attempts to regulate the wireless industry have only impeded its growth, while deregulation has been a major catalyst for wireless investment and competition. *See also* Clearwire at 2 ("flexible rules and policies facilitate and encourage Clearwire's and others' use of the 2.5 GHz band for advanced wireless services").

Net Regulation. There is likewise no merit to arguments that the Commission should impose burdensome broadband regulation – either unbundling or so-called network neutrality – on wireline networks as a means to promote broadband deployment.[12] As Verizon demonstrated in its comments, unbundling and network sharing polices have been tried in the past and they not only failed to enhance broadband investment, they deterred it. Since that time, broadband services have grown only more competitive, which makes the case for imposing new regulation such as so-called net neutrality even weaker. Moreover, the proponents of net regulation have failed to

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[10] *See* Consumers Union *et al.* at 53; CCIA at 5.

[11] *See* Comments of Verizon Wireless, *Skype Communications S.A.R.L. Petition To Confirm a Consumer's Right To Use Internet Communications Software and Attach Devices to Wireless Networks*, RM-11361 (FCC filed Apr. 30, 2007).

[12] *See* Consumers Union *et al.* at 54; CCIA at 8.

provide evidence of any problem that needs to be addressed, much less the type of market failure that would justify the intrusive, common-carriage-like requirements that many of them advocate. Also, providers like Verizon are committed to providing their subscribers with a range of services that allow them all of the benefits of the content and services available on the Internet. And, given the existing and increasing competition among broadband providers, there is no reason to believe that broadband providers would do otherwise.

In addition to the risk that invasive regulation would chill investment in broadband networks and services – as history shows that it would – net regulation also threatens consumer welfare by inhibiting the development of differentiated service offerings that could better meet consumers' needs. For example, as competition has grown, so has the demand for new types of broadband service that, unlike online services of the past, require more than best-efforts guarantees – such as video, online gaming, telemedicine, and others. By freezing in place the current "best efforts Internet," net regulation would, among other things, sharply limit the ability of broadband providers to provide services that optimize the delivery of these services and, therefore, make them more valuable to consumers. This would, in turn, reduce demand for broadband and the corresponding demand for next-generation networks that Verizon and others are building. The Commission should accordingly reject such proposals.[13]

Restrictions on Copper Retirement. Just as the Commission should not backtrack with respect to broadband regulation, it also should not impede the ability of Verizon and other wireline carriers to retire copper facilities when they deploy new fiber networks.

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[13] *Broadband Industry Practices*, Notice of Inquiry, WC Docket No. 07-52, FCC 07-31 (rel. Apr. 16, 2007).

As Verizon has explained elsewhere, it makes no sense to require Verizon to maintain redundant copper facilities that have been replaced by fiber.[14] In fact, the Commission already recognized, in the *Triennial Review Order*, that requiring a provider to incur the expense of maintaining and operating redundant networks would lessen the incentive for all providers to invest in broadband infrastructure, including in particular next-generation fiber networks.[15] The Commission's considered judgment on this particular issue has proven successful – as the competitive facts discussed above and in Verizon's comments show – and there is no reason for the Commission to backtrack on its settled policy. In any event, concerns about copper retirement are premature. Verizon – which is far and away the largest current investor in fiber-to-the-premises networks – is not currently retiring copper loops on a large scale anywhere in the country as the result of the deployment of its FiOS network. Instead, at this stage in Verizon's rollout of FiOS, it is understandably focusing on deploying fiber to more areas, and to switching over those customers who order FiOS services, rather than retiring legacy facilities.

Special Access. Time Warner Telecom and Sprint also argue that the Commission should promote broadband by re-regulating special access.[16] But neither comes close to demonstrating that such regulation is necessary or would have the desired effect. Sprint argues that regulation is needed to constrain special access prices, in order to facilitate the deployment of wireless broadband networks that Sprint is constructing.

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[14] *See* Verizon Comments, *Petitions for Rulemaking and Clarification Regarding the Commission's Rules Applicable to Retirement of Copper Loops and Copper Subloops*, RM-11358 (FCC filed Mar. 1, 2007).

[15] *See Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, ¶¶ 213, 244, 272, 281-284, 290, 295 (2003).

[16] *See* Time Warner Telecom *et al.* at 12-13; Sprint at 15.

But Sprint is already investing heavily to deploy those networks as are other wireless carriers. Indeed, Sprint concedes (at 4) that "[b]roadband continues to be deployed in a reasonable and timely fashion." In any event Sprint and Time Warner Telecom rehash claims that special access is insufficiently competitive, based largely on evidence regarding Verizon's ARMIS returns. But as Verizon has demonstrated extensively elsewhere, there are no merits to such claims. *See* Attachment A. Special access is highly competitive and prices are falling.

Subsidy Programs. Finally, a number of parties argue that the Commission should promote broadband deployment through existing or new universal service funds, other direct-subsidy programs, and mechanisms such as tax incentives, low-interest loans, and grants.[17] As Verizon recently explained in other proceedings, broadband deployment is proceeding apace under current policies, and it would be a mistake to impose additional costs on these services – such as USF assessments – if the Commission is interested in spurring broadband deployment and adoption.

For those limited areas where market forces are unlikely to lead to broadband deployment in a reasonable timeframe, the best approach is to use targeted programs specifically designed to encourage development of broadband infrastructure – such as the ConnectKentucky initiative described above. Focusing on solutions that will fix broadband access gaps at the local level would be much more efficient and effective than adding broadband to the USF. If broadband is a vital part of the nation's transforming infrastructure – and it is – then government can do better than broadening the reach of a

[17] *See* APT at 12; CCIA at 5; Nebraska Companies at 8; ConnectedNation at 6; Consumers Union *et al.* at 53; Alexicon Telecommunications Consulting at 5; CTIA at 16; Embarq at 2; NTCA at 6; Puerto Rico Telephone Company at 4-5; Qwest at 2.

broken and strained USF system. While the Commission may wish to investigate tax incentives or other programs to help deliver broadband to those most in need, it is critical that such programs are competitively neutral and do not burden the provision of broadband to other consumers.

III. THERE IS BROAD CONSENSUS THAT THE COMMISSION SHOULD COLLECT DATA ON A WIDE RANGE OF BROADBAND SPEEDS RATHER THAN ADOPT AN ARBITRARY THRESHOLD

Verizon explained in its comments that, because the broadband marketplace is continually evolving, the Commission should take a flexible approach to defining broadband, rather than choose an arbitrary threshold. Verizon further explained that the Commission should continue to collect data regarding entry-level broadband speeds (200 kbps or higher) because such speeds are still sufficient for many popular applications (such as web-surfing and e-mail), but that the Commission should also continue its practice – started with the June 2006 reporting process – of collecting data for different categories of higher-speed services. Verizon also recommended that the Commission add one additional reporting category for speeds above 200 kbps but less than 700 kbps, which would allow the Commission to better understand the prevalence of services on the lower end of the broadband scale, and to distinguish those from faster services that enable a broader range of services and applications.[18]

There is a broad consensus among the comments for the Commission to take a flexible approach to collecting broadband data that is generally consistent with the

[18] Although average broadband speeds have been increasing – driven by competition and consumer demand for bandwidth-intensive applications – maintaining the existing reporting categories will provide a more accurate historical perspective of the progress that has been made than arbitrarily changing the reporting framework.

approach that the Commission has already adopted.[19] Although various parties suggest slightly different categories than the Commission already uses,[20] this merely reaffirms the need for a flexible approach. If the Commission allows parties to report their broadband data based on the service tiers they actually offer, the Commission can then sort these data based on how they fall. For example, as certain lower speed services disappear in the future, it may make sense to adjust the categories. It makes no sense, however, to eliminate categories simply because of artificial or aspirational notions of how broad broadband should be.

For similar reasons, there is no need to address various arguments that the Commission's current definition of broadband (200 kbps or higher) is inadequate.[21] As an initial matter, such claims ignore the fact that the Commission has already begun to collect and report data for different service tiers, which enables a more nuanced view of the broadband marketplace. Merely revising the baseline definition would not speed up available broadband offerings, but instead would only reduce the data available to track the progress of broadband deployment. So long as the Commission continues to report data for multiple categories, there is no legitimate concern that the Commission will be

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[19] *See* National Association of State Utility Consumer Advocates ("NASUCA") at 9; National Association of Telecommunications Officers and Advisors ("NATOA") *et al.* at 8; ALA at 7; FTTH Council at 2; CCIA at 2; APT at 4; NJ Rate Counsel at 10; Organization for the Promotion and Advancement of Small Telecommunications Companies at 11; TIA at 5.

[20] *See, e.g.*, FTTH Council at 2; APT at 6.

[21] *See* Consumers Union *et al.* at 17; APT at 6; CCIA at 2; NASUCA at 9; ALA at 6; FTTH Council at 3; Regional Planning Commission of Greater Birmingham at 1.

overstating the extent of such deployment, as the commenters advocating an upward revision of the broadband definition seem to fear.[22]

Several parties also argue that the Commission should greatly increase reporting obligations on broadband providers in order to obtain more granular data concerning available broadband offerings.[23] As noted above, the Commission has recently amended its Form 477 requirements in order to do just that with respect to the ranges of speed of the broadband offerings being purchased by subscribers. And the Commission is now in the process of revisiting its broadband reporting requirements, as well as considering other sources for useful data on broadband availability and adoption.[24] As the Commission recognized in that NPRM, the Commission should consider factors such as the burden placed on broadband providers and the competitive sensitivity of data when

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[22] Although some parties argue that the Commission should collect data on upstream speeds as well as downstream speeds, there is little need for this at this time. *See* Consumers Union *et al.* at 11; NATOA at 9. For the most part, broadband services offering higher downstream speeds also offer correspondingly higher upstream speeds. For example, Verizon offers two main variations of DSL (with maximum speeds up to 768/128 kbps and 3 Mbps/768 kbps, respectively) and three principal variations of FiOS (with speeds up to 5/2 Mbps, 15/2 Mbps, 30/5 Mbps). It is therefore possible to determine from the Commission's data on downstream speeds a rough approximation of upstream speeds. Although there may be a point in the future where it would be useful to obtain more precise data, at present the burdens of requiring parties to produce such data outweigh the limited benefits. Moreover, as demand for services with faster upload speeds grows, there is every reason to believe that broadband providers will respond to that demand in order to better compete. For example, Verizon's FiOS Internet services offer maximum upload speeds ranging from 2 Mbps to 10 Mbps – faster than the download speeds of many competing providers.

[23] *See* Consumers Union *et al.* at 19; APT at 5; NJ Rate Counsel at 17; ConnectedNation at 5; ALA at 8; CCIA at 3; NASUCA at 8; Time Warner Telecom at 17-18.

[24] *Deployment of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, Notice of Proposed Rulemaking, WC Docket No. 07-38, FCC 07-17 (rel. Apr. 16, 2007).

establishing reporting requirements, as well as considering whether the resulting data would be meaningful to policy makers. The Commission should also consider relying more heavily on existing sources of useful data other than broadband providers, including public-private partnerships like ConnectKentucky; private entities that collect and analyze broadband data, such as the Pew Internet & American Life Project; and the Census Bureau. In any event, that proceeding is the proper forum for the Commission to weigh these complicated issues.[25]

In particular, although some parties point to the detailed maps and data compiled by ConnectKentucky as a model for the Commission to emulate,[26] that project involved far more than merely collecting data from service providers and was successful in large part as a result of the public-private nature of the initiative. Most importantly, it did not simply map the supply-side of the equation, but also gathered information on the demand-side, thereby giving service providers a strong business incentive to cooperate by identifying unserved patches of demand. *See* ConnectedNation at 6 ("Measure and track broadband information and technology use among citizens and businesses, investigate barriers to adoption at a local level, and provide market analysis for unserved areas."); *id.* at 7 ("When combined with a program to drive demand for broadband services through

[25] For the same reasons, the Commission should reject requests to collect additional data regarding broadband prices. *See* NJ Rate Counsel at 17; NASUCA at 9; Alexicon Telecommunications Consulting at 5; Consumers Union *et al.* at 50; TIA at 8. The Commission should also reject Time Warner Telecom's request to collect more data regarding special access as part of this proceeding. *See* Time Warner Telecom at 8. Special access is widely available from multiple providers. Although Time Warner Telecom rehashes arguments that special access is insufficiently competitive, this is not the appropriate proceeding to address those claims, which in any case are false. *See* Attachment A. Moreover, Time Warner Telecom's request for more data rings hollow given that Time Warner Telecom – and other CLECs – have consistently refused to provide the kind of data that would make such an inquiry meaningful.

[26] *See* Consumers Union *et al.* at 20; APT at 7; ALA at 8-9; ConnectedNation at 5.

local technology planning and adoption programs, providers have an incentive to cooperate in the mapping process."). In addition to compiling information to help providers determine whether a certain area is worth the investment, ConnectKentucky also developed a business case for deploying wireline and other fixed broadband services in unserved areas. *See id.* at 8-9. Moreover, given the public-private nature of the initiative, providers were able to more freely share information, subject to non-disclosure agreements, without fear of disclosure or regulatory consequence. Therefore, Verizon fully supports use of the ConnectKentucky, public-private partnership model more broadly across the country to encourage the deployment of broadband services, although it does not favor the imposition of burdensome reporting obligations to the government that would impose the burdens of that project without any of the corresponding benefits.

IV. INTERNATIONAL COMPARISONS SUGGEST THAT THE U.S. HAS BECOME A LEADER IN BROADBAND SINCE THE INCEPTION OF THE COMMISSION'S POLICIES, NOT THAT IT IS BEHIND NOR THAT BURDENSOME REGULATION IS NEEDED TO CATCH UP

A number of commenters argue that the Commission should adopt the regulatory policies of other countries, which they claim have achieved greater broadband success than the U.S.[27] As Verizon explained in its comments, however, although it is difficult to draw meaningful conclusions about the relative levels of broadband penetration among different countries because of the different ways of measuring such penetration and the various supply-side and demand-side factors that could influence such penetration, the U.S. broadband marketplace already leads the rest of the industrialized world or is at the top of a very small list of countries. Verizon demonstrated that the U.S. is perhaps the

[27] *See* Consumers Union *et al.* at 44; Time Warner Telecom at 13. *See also* Alexicon Telecommunications Consulting at 7; ALA at 10; CCIA at 8.

only country in the world where two wireline broadband alternatives are available to the vast majority of households, and where other broadband alternatives (such as satellite) also are ubiquitously available; that mobile wireless is more widely deployed in the U.S. than most other countries; and that the U.S. is one of only a handful countries in the world – and the only large country – where private companies are investing heavily to deploy next-generation fiber broadband networks.

The comments downplaying the U.S.'s successes provide no evidence that intrusive regulation has enabled other countries to achieve greater broadband success than the U.S. For example, Consumers Union *et al.* concede (at 43) that half of the countries supposedly ahead of the U.S. in the OECD rankings – including those at the top of the OECD's list – have significant facilities-based competition. While Consumers Union *et al.* and others point to Korea, Japan, and the United Kingdom as examples where intramodal competition has buttressed intermodal competition, these examples are not instructive. As an initial matter, as discussed in Verizon's comments, similar policies were tried in this country, and the evidence shows that they were not successful. Instead, intermodal broadband competition has thrived after the removal of burdensome, network-sharing rules. In any case, even with aggressive unbundling policies, and ignoring a host of other demand- and supply-side issues, both Japan and the United Kingdom have achieved only slightly higher broadband penetration according to the latest OECD statistics.[28] Moreover, there is evidence to suggest that these gains are only short-term: in both countries, no serious effort has been made to deploy a ubiquitous second broadband platform (cable in both countries is very limited), and no private company is investing on

[28] *See* OECD, *OECD Broadband Statistics to December 2006*, http://www.oecd.org/sti/ict/broadband.

its own in deploying fiber.[29] Fiber deployment in Japan (and Korea) is being driven by government funding (which, incidentally, also owns part of the incumbent telco in both countries).[30] In the United Kingdom, the British Telecom slides that Time Warner Telecom attaches indicate that there is no present plan to deploy fiber in that country; British Telecom states that it does not yet believe an "economic rationale" for such deployment exists.[31]

In sum, the pursuit of unbundling and other burdensome regulatory policies is not a model for the U.S. to follow. Indeed, such regulation has been tried and failed. To the extent that unbundling has had an impact on broadband rates in other countries, it is likely that such short-term gains will inhibit investments that would yield increased intermodal competition and deployment of next-generation networks in the long-term.

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[29] *See id.*

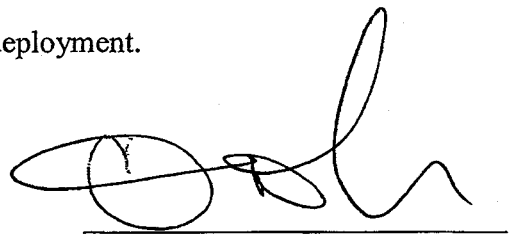
[30] T. Bleha, *Down to the Wire*, Foreign Affairs (May/June 2005), http://www.foreignaffairs.org/20050501faessay84311/thomas-bleha/down-to-the-wire.html (To encourage the deployment of fiber, the Japanese government used tax breaks, debt guaranties, and partial subsidies. Companies that were willing to lay fiber were allowed to depreciate about one-third of the cost on first-year taxes, and their debt liabilities were guaranteed by the government. To encourage the deployment of fiber in rural areas, towns and villages willing to establish their own fiber networks received a government subsidy covering approximately one-third of their costs, so long as those networks were open to outside access); S. McClelland, *21CN: Japan's 21st Century Network (Part 3)*, Telecommunications Online (Mar. 27, 2006), http://www.telecommagazine.com/newsglobe/article.asp?HH_ID=AR_1901 (NTT is "subsidizing each competitor and each subscriber"); N. Onishi, *In a Wired South Korea, Robots Will Feel Right at Home,* N.Y. Times (Apr. 2, 2006), http://www.nytimes.com/2006/04/02/world/asia/02robot.html?ex=1301634000&en=7d5fcaf014309078&ei=5088&partner=rssnyt&emc=rss ("The [South Korean] government deregulated the telecommunications and Internet service industries and made investments as companies laid out cables in cities and into the countryside. The government offered information technology courses to homemakers, subsidized computers for low-income families and made the country the first in the world to have high-speed Internet in every primary, junior and high school.").

[31] *See* Time Warner Telecom at Appendix A.

The Commission has wisely recognized that promoting facilities-based competition is the best way to ensure greater broadband investment, and its policies have proven successful. The experience in other countries provides no basis for the Commission to backtrack now, which would snatch defeat from the jaws of victory.

CONCLUSION

The Commission's policies have been successful at promoting broadband competition and investment. The Commission should continue to take deregulatory steps to increase broadband investment and deployment.



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May 31, 2007

ATTACHMENT A

Attachment A

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
CMRS Market Competition	)	WT Docket No. 07-71

VERIZON REPLY COMMENTS

Verizon's wireline companies[1] are responding in this docket only because Sprint has raised claims about special access that are both untrue and go beyond the scope of this proceeding.[2] Contrary to Sprint's baseless claims, Verizon has demonstrated that the prices customers actually pay for special access services, particularly DS1 and DS3 services, have declined since the introduction of pricing flexibility, and have declined more rapidly than they did prior to that time. Verizon also has shown that there are numerous competitive providers of these high-capacity services. As a result, competition both for wireless services and for other services that use special access has thrived. Although Sprint claims that it is experiencing "adverse effects" in the form of "high" costs for special access inputs and decreased intermodal competition, there is no evidence that consumers are being harmed, and the fact that Sprint would like to pay less and increase its profits is not a valid basis for Commission action.

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1 The Verizon companies participating in this filing ("Verizon") are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

2 *See* Sprint Nextel Corporation Comments, *CMRS Market Competition*, WT Docket No. 07-71 (FCC filed May 7, 2007).

Sprint's claim that Verizon is exercising monopoly power over special access pricing is wrong, and the "evidence" Sprint cites to support this claim proves nothing. First, Sprint improperly compares the DSL services Verizon offers its residential retail customers with the high-capacity DS1 special access services Verizon sells to Sprint and other business customers. The fact that there is a difference in price between residential DSL and high-capacity DSl services is meaningless. As demonstrated below, the DSL service offered to business customers that is most comparable to Verizon's DS1 special access services *is* priced at levels comparable to Verizon's DS1 special access service. Second, as Verizon has explained repeatedly, and the Commission has recognized, ARMIS rates-of-return (or profits as Sprint describes them), bear no relationship to pricing and serve no rate-making purpose. Thus, ARMIS returns shed no light on whether special access rates are competitive, which they are.

I. Prices Customers Pay for Special Access Services Have Declined.

Verizon has provided extensive evidence that prices customers pay for special access services have declined both in regulated and in non-regulated market areas. These declines have occurred as customers have taken advantage of the many discount plans that are being offered as a result of increased pricing flexibility.

To determine the prices customers actually pay for Verizon's special access services, Verizon analyzed data to calculate average revenue per special access line. This data showed that average revenue per line for special access services overall, and separately for DS1s, has fallen significantly. Taken as a whole, prices have declined in all regions since the FCC implemented pricing flexibility. Even in areas that continue to remain under price caps, prices have declined by more than the Commission mandated.

Between 2002 and 2004, for example, DS1 prices declined by about 6 percent,[3] while the mandated FCC reduction over the same period was only 4 percent.[4] Overall, the special access rates that customers paid declined by about 16-17 percent annually between 2001 and 2004, while the mandated Commission reduction was only 4 percent.[5] Pricing flexibility is applying additional downward pressure on prices.

Although Sprint complains (at 4) about the pricing for "last mile" connections to its cell cites, typically DS1s, these connections are still largely regulated. Very few of Verizon's last mile circuits (or DS1 channel terminations) have received complete pricing flexibility. The vast majority remain under FCC price regulation.

II. The "Evidence" Sprint Cites to Support its Claim That Verizon's Special Access Prices Are Too High Proves Nothing.

The first bit of "evidence" Sprint offers to support its claim that Verizon's special access prices, particularly for DS1 services, are too high is a purported comparison in the price of Verizon's "DSL Power Plan" service and Verizon's DS1 special access service. These services, however, are not comparable and are not the same "type" of circuits as Sprint suggests. Verizon's DSL Power Plan service is a retail residential DSL service offering. This particular service offering is one of the lowest priced and lowest speed DSL services Verizon offers.[6] While it is appropriate to serve the needs of many

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3 *See* Declaration of William E. Taylor on Behalf of Verizon ¶ 26 ("Taylor Special Access Declaration"), *attached to* Comments of Verizon, *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25 (FCC filed June 13, 2005) ("Verizon Special Access Comments").

4 Taylor Special Access Declaration at Table 4.

5 *Id.* at Tables 1 & 4.

6 For a comparison of DSL residential and business plans, see http://www22.verizon.com/content/businessdsl/packages+and+prices/

residential customers, it is an asymmetrical service offering, meaning that the speed for uploading data is not equal to that for downloading data.

In contrast, Verizon's DS1 special access service is sold almost exclusively to business customers and to other competitive providers, like Sprint. Residential customers typically have no need for and do not purchase these types of high-capacity facilities. Verizon's DS1 special access service provides a dedicated two-way service capability at speeds much faster then Verizon's DSL Power Plan offering. The most comparable DSL service offering that Verizon has to a DS1 special access offering is a service called "Premium DSL," which is a service Verizon offers to business customers. Like Verizon's DS1 special access service, this DSL service provides symmetrical data capability and provides speeds comparable to DS1 special access for both uploading and downloading data.[7] The price for this service is $222 per month,[8] in line with the month-to-month base price for DS1 special access service Sprint cites.

In addition to the fact that these services are not comparable, the price Sprint quotes for DS1 special access service is misleading as well. Competitive providers who argue that special access rates have risen since the Commission granted pricing flexibility and, therefore, that the Commission should re-regulate pricing for these services, usually cite, as Sprint does here, the pre-discount month-to-month rates offered in ILEC special access tariffs. As Verizon has explained elsewhere, however, the majority of special

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packages+and+prices.htm and http://www22.verizon.com/content/consumerdsl/plans/all+plans/all+plans.htm.

[7] *See* Verizon, *Generally Available Terms and Conditions*, Attachment 3, Section V, https://www22.verizon.com/dslmembersonly/docs/GATC-TermsandConditionVer1_2.pdf.

[8] *Id.*

access customers, representing as much as 85 percent of Verizon's wholesale demand, do not pay these month-to-month rates.[9] Instead, they purchase special access services under pricing plans that provide discounts ranging from 40 to 70 percent off standard, month-to-month rates. These discounts, in part, account for the significant decline in prices customers are actually paying for special access services. Sprint is no different. In fact, Verizon's analysis shows that Sprint is paying significantly less for Verizon's special access DS1s than the prices it cites in its comments.

The second piece of "evidence" Sprint offers to support its claim that Verizon's special access rates are too high is the timeworn argument that Verizon's ARMIS rate of return is high. But this argument proves nothing either. First, as Verizon has explained,[10] and the Commission has long recognized, accounting rates of return reported in ARMIS do "not serve a ratemaking purpose,"[11] and for good reason. ARMIS reports require wholly arbitrary allocations of costs among categories of interstate services. There are mismatches between revenues and costs among ARMIS categories. "For example, marketing expenses related to all interstate categories are recovered predominately through common line rates, and expenses and revenues associated with universal service contributions and other regulatory surcharges are booked to different

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9 Verizon Special Access Comments at 3.

10 Verizon Special Access Comments at 18-23; Reply Comments of Verizon at 8, *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25 (FCC filed July 29, 2005) ("Verizon Special Access Reply Comments"); Reply Declaration of William E. Taylor on Behalf of Verizon ¶¶ 11-19 ("Taylor Special Access Reply Declaration"), *attached to* Verizon Special Access Reply Comments.

11 *See Policy and Rules Concerning Rates for Dominant Carriers*, Order on Reconsideration, 6 FCC Rcd 2637, ¶ 194 (1991).

categories."[12] So long as all costs are allocated, the allocations serve the Commission's purpose, even if allocation of costs is inherently arbitrary. To use those allocations for rate-of-return calculations, however, stretches the purpose of the FCC allocations beyond their reasonable use.

Moreover, the arbitrary nature of the ARMIS category-specific data, and the fallacy of claims that rates-of-return should drive special access pricing determinations, is evident from comparing special access and switched access rates-of-return over time. While Verizon's overall interstate rate of return has remained within a fairly narrow and reasonable range between 2000 and the present (17 to 21 percent), reported special access returns increased somewhat and the switched access returns dramatically declined. Accordingly, if the Commission were to consider service-specific rates-of-return, it would have to ameliorate the apparently confiscatory returns in the switched access category. Verizon's returns for switching and total traffic sensitive services, in the former NYNEX serving area most recently were, for example, 0.45 and 1.29 percent, respectively, and rates-of-return for transport were negative across throughout the Verizon footprint, ranging from -0.33 percent in the former Bell Atlantic serving area to -7.45 percent in the former NYNEX serving area.[13] Yet no proponent of using rate-of-return data to advocate pricing determinations has suggested that rates for these services should be increased to correct this shortfall.

III. There Are Multiple Competitive Providers of Special Access Services.

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12 *See generally* Verizon Special Access Comments at 21; Taylor Special Access Declaration ¶¶ 93-95 (explaining the "impossibility" of "assigning fixed common costs and network investment in any economically meaningful way.").

13 2006 ARMIS FCC Reports 43-01.

Verizon also has demonstrated, and the Commission has agreed, that there are numerous competitive providers of special access services, particularly in areas where demand for high-capacity services is greatest.[14] Verizon has shown that the majority of the demand for high-capacity special access services, including demand for DS1 special access services, is highly concentrated in central business districts and office parks.[15] Indeed, 80 percent of the demand for Verizon's high-capacity special access services is concentrated in a little over 8 percent of the Verizon wire center locations contributing to Verizon's high-capacity special access revenue.[16]

Because demand for high-capacity services is so concentrated, competitive providers have targeted their facilities deployment geographically to reach the greatest demand. Accordingly, Verizon's inspections and data show that there is competitive fiber collocated in nearly two-thirds of Verizon's central offices in MSAs that account for 80 percent of Verizon's demand for high-capacity special access services.[17] In addition, 80 different providers, both large and small, have collocated in Verizon wire centers in

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[14] Verizon Special Access Comments at 24-34; Declaration of Quintin Lew ¶¶ 11-20 and Exhibits 8-26 ("Lew Special Access Declaration"), *attached to* Verizon Special Access Comments. *See also Verizon Communications Inc. and MCI, Inc. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18433, ¶¶ 24, 30 (2005) ("Verizon/MCI Order") ("[I]n Verizon's territory, it is clear that, in addition to MCI, 360 Networks, AboveNet, AT&T, Broadwing/Focal, Cablevision Lightpath, Con Ed, Cox, CTC Communications, CTSI, Elantic/Dominion, Edison Carrier Solutions/SCE, Electric Lightwave, Fiber Net, FPL Fibernet, Interstate Fibernet/ITC Deltacom, DMC Telecom, Level 3, Looking Glass, McLeod USA, Neon, NTS Communications, On Fiber, PPL Telecom, Progress Telecomm, Qwest, SBC Communications, Sprint, TelCove, Time Warner, Wiltel and XO provide wholesale . . . special access services.").

[15] Verizon Special Access Comments at 24.

[16] *Id.*

[17] Verizon Special Access Reply Comments at 20. *See also* Lew Special Access Declaration ¶¶ 10-12 & Exhibits 2-5.

the top 40 MSAs contributing to special access revenue in Verizon's territory, and many of these providers have fiber in anywhere from several dozen to over a 100 Verizon wire centers.[18]

These collocation data, moreover, understate the extent of deployment because they fail to capture competition from carriers that bypass Verizon's facilities altogether. Indeed, even Sprint has recognized that collocation triggers "can be inadequate and unreliable indicators of competition" because "[m]any alternative providers of special access services do *not* collocate in the ILEC end office (for example, a neighboring ILEC that overbuilds its local franchise, or a cable or electric power company that uses its own plant to provide telecommunications services)."[19] Providers collocating in carrier hotels which are often located in the same buildings as competing carriers' optical networks, for example, obtain direct access to competitive transport networks.[20] For this reason, Sprint's arguments (at 2) about the number *ILEC access lines* AT&T and Verizon collectively control and the percent of *ILEC special access revenue* AT&T and Verizon earn, prove nothing because they fail to account for the non-ILEC high-capacity access lines that are provided by these numerous competitors.

Based on this and additional data showing competitors' fiber deployment and lit buildings,[21] the Commission has found that in Verizon's serving territory competitors

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[18] Verizon Special Access Reply Comments at 20. *See also* Lew Special Access Declaration ¶¶ 10-12 & Exhibits 4-5.

[19] Comments of Sprint Corporation at 10, *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25 (FCC filed June 13, 2005).

[20] Verizon Special Access Reply Comments at 21.

[21] Verizon Special Access Comments at 27-28; Lew Special Access Declaration ¶¶ 14-23 & Exhibits 4, 5, 22N, 22T & Appendix B (showing that competitive providers

have "extensive networks," and "reasonably could provide wholesale special access . . . ."[22] Contrary to Sprint's claims then there are multiple alternative providers of wholesale high-capacity special access services.

Furthermore, although Sprint argues that it still lacks multiple competitive alternatives for *remote* cell cites, this does not mean that special access services or prices should be re-regulated. Competitive pressure in places where demand is concentrated and competition is greatest disciplines prices even in more remote areas. For wireless carriers with demand outside of central business districts, Verizon's discount pricing plans allow Sprint and other wireless carriers to obtain discounts that cover *all* special access services. Wireless carriers, therefore, may leverage their purchases to obtain discounts for services in remote areas just as they do in areas where demand is greatest.

Not surprisingly, the Commission and courts have recognized that the wireless industry is highly competitive and data "'clearly show that wireless carriers' reliance on special access has not posed a barrier that makes entry uneconomic,' and that 'market evidence already demonstrates that existing [special access] rates . . . don't impede competition.'"[23] Although we do not doubt that Sprint would like to pay less for services, as consumers would always purchase at lower prices if they could, wireless carriers have been thriving even while paying current rates for special access services.

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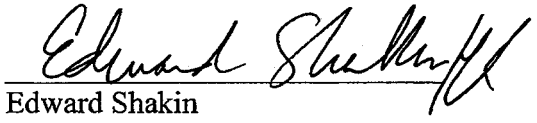
have over 55,000 local route miles and use their own fiber to connect to over 31,400 buildings across the country).

22 Verizon/MCI Order ¶ 45.

23 *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, 20 FCC Rcd 2533, ¶ 35 (2005) (citing *USTA v. FCC*, 359 F.3d 554, 575-576 (D.C. Cir. 2004)).

There is simply no reason to think that wireless carriers, including Sprint, need a price break to compete.

Respectfully submitted,



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